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ABSTRACT

This chapter--new to the "Yearbook"--discusses all court cases reported in 1986 that involved student athletes, coaches, athletic directors, athletic associations, booster organizations, interscholastic sports programs and events, and sports facilities and equipment at both the K-12 and higher education levels. It does not, however, include case law involving physical education or intramural participation. The first section discusses constitutional provisions and statutes upon which these cases are based, including the equal protection and due process clauses of the Fourteenth Amendment, Title IX of the Education Amendments of 1972, and the Civil Rights Acts of 1964 and 1871. Subsequent sections discuss court decisions on student eligibility for participation in sports, equality of programs, and enforcement of rules. The next major section discusses tort cases brought for intentional wrongs (assault and libel), negligence, and products liability in connection with sports programs. This is followed by a discussion of cases related to employment of athletic personnel: adverse employment decisions, compensation, discrimination on the basis of race or sex, and contracts with equipment distributors. The last section addresses miscellaneous cases arising from discipline of nonparticipants, media coverage, open meetings laws, public records, and workers' compensation claims. (TE)

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SPORTS

Stephen B. Thomas and Janet M. White

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INTRODUCTION

This Chapter is new to the *Yearbook* and includes all cases involving student-athletes, coaches, athletic directors, athletic associations, booster organizations, sports programs and events, and sports facilities and equipment at both the k-12 and higher education levels, but does not include case law involving physical education or intramural participation.

The case law in this section primarily is based on the fourteenth amendment, title IX of the Education Amendments of 1972, title VII of the Civil Rights Act of 1964, or 42 U.S.C. section 1983 (Civil Rights Act of 1871). Each of these laws is briefly discussed in the next section of this chapter. Following that discussion is a summary of the related case law in the sports area.

RELATED CONSTITUTIONAL PROVISIONS AND STATUTES

Fourteenth Amendment

The fourteenth amendment states in part that "[n]o [s]tate shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Because public schools are considered part of the "state" for fourteenth amendment purposes, public school educators are required to treat similarly all classes of persons and to provide adequate due

process where liberty and property interests allegedly are denied.

Equal Protection. If a government policy or law *facially discriminates* against an individual on the basis of a *suspect classification* (e.g., alienage, race, nationality[1]) or affects a *fundamental right* (an explicit or implicit constitutional right—e.g., to assemble, to vote, to procreate[2]), such provisions will be *strictly scrutinized* by the courts and will be justified only if a *compelling interest* can be proven. This high level of scrutiny is based on the principle that certain actions must be subjected to close analysis in order to preserve equality and liberty.

If neither a suspect class nor a fundamental right is involved, the challenged act must bear only a *rational relationship* to a legitimate governmental objective. Under this minimum scrutiny standard, acts are invalid only if they are "clearly wrong, a display of arbitrary power, not an exercise of judgment."[3]

In addition to the two extreme standards (strict scrutiny and rational relationship), the Supreme Court has established an *intermediate level of scrutiny* which requires the classification to serve important governmental objectives, and the discriminatory acts to be substantially related to the achievement of those objectives.[4] This standard is applied where mere rationality is too lenient and strict scrutiny is too demanding. A significant (though not necessarily fundamental) interest allegedly would be infringed, while a sensitive (though not necessarily suspect) class would be involved.

Education is not mentioned in the United States Constitution, nor is acquiring an education essential to involvement in rights that are guaranteed by the Constitution (e.g., neither education nor literacy is prerequisite to voting). As a result, education is not a fundamental right, but has been ruled both to be of "fundamental importance,"[5] and to quality as a "property right" under state law. Given this reasoning, if a standard higher than rational relationship is to be applied in situations involving the right to an education, it would require that a suspect, or at least quasi-suspect, class exist. (However, the Court has deviated from this position where students are denied free admission to public schools.[6])

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1. *E.g.*, Graham v. Richardson, 403 U.S. 365 (1971) (alienage); Hunter v. Erickson, 393 U.S. 385 (1969) (race); Korematsu v. United States, 323 U.S. 214 (1944) (nationality).
2. *E.g.*, Police Dep't v. Moseley, 408 U.S. 92 (1972) (right to assemble); Reynolds v. Sims, 377 U.S. 533 (1964) (right to vote); Skinner v. Oklahoma, 316 U.S. 535 (1942) (right to procreate).
3. Mathews v. DeCastro, 429 U.S. 181, 185 (1976).
4. Wengler v. Druggists Mutual Ins. Co., 446 U.S. 142, 150 (1980); Craig v. Boren, 429 U.S. 190, 197 (1976).
5. San Antonio Indep. School Dist. v. Rodriguez, 441 U.S. 1 (1973).
6. Plyler v. Doe, 102 S. Ct. 2382, 2398 (1982).

In addition to the above, it should be noted that not all policies or laws facially discriminate; in fact, most are *facially neutral*, but may be applied or enforced in a discriminatory manner. In such situations, the plaintiff must prove that the discriminatory act was purposeful and that there was an intent to discriminate. Although it is not impossible to prove intent, it may prove exceedingly difficult in the majority of cases, even if actual discrimination exists.

Due Process. The fourteenth amendment also requires that neither life, liberty, nor property may be withdrawn or withheld from an individual unless there is an adequate determination that the deprivation is justified. Where a due process violation is claimed, the courts determine whether the plaintiff had a liberty or property interest at stake; whether governmental action infringed such an interest; and whether adequate due process procedures were followed. The more significant the property or liberty interest, the "more process that is due."

Education Amendments of 1972—Title IX

This antidiscrimination law stipulates in part that "[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving [f]ederal financial assistance . . ."[7] The application of this law has been restricted in recent years; only those specific programs that receive financial assistance are required to comply. Due to this fact, recent cases involving alleged sex discrimination often are based on the fourteenth amendment, rather than title IX.

Civil Rights Act of 1964—Title VII

Title VII prohibits employers with fifteen or more employees, employment agencies, and labor organizations from discriminating against employees on the basis of race, color, religion, sex, or national origin and covers hiring, promotion, and compensation practices as well as fringe benefits and other terms and conditions of employment. Two legal theories have been developed for assessing the merits of claims of employment discrimination under this law: disparate treatment and disparate impact.

Disparate Treatment. This standard requires the plaintiff to prove a discriminatory motive on the part of the employer. It is similar to

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7. 20 U.S.C. § 1681.

that required under the equal protection clause of the fourteenth amendment. In meeting this burden of proof, the plaintiff generally must establish that he (a) was a member of a protected class, (b) applied for the job, (c) possessed the qualifications for the position, and (d) was rejected. Also, it often must be demonstrated that the employer continued to seek applicants with plaintiff's qualifications. Once a discriminatory intent has been established, the employer then is responsible for showing a legitimate nondiscriminatory basis for plaintiff's rejection. However, even if the employer can establish such a basis, the plaintiff may then claim that the defendant's arguments are simply a pretext to a discriminatory motive.

Disparate Impact. Under disparate impact, the plaintiff is not required to support a claim of discriminatory intent, but rather is required only to prove that the facially neutral practice had a disproportionate impact on the protected group to which plaintiff is a member. Once such a prima facie case is established, the employer then must prove that the policy or practice is justified by a business necessity. Furthermore, in disparate impact cases a nondiscriminatory reason for the act is insufficient to rebut the inference of discrimination.

Civil Rights Act of 1871—Section 1983

Section 1983 stipulates in part that,

> [e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any [s]tate or [t]erritory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution or laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.[8]

The term "person" is not defined in the Act, but the Supreme Court has concluded that local governments (including public school boards, cities, and counties) are persons and therefore may be sued under section 1983. Additionally, persons acting under color of state law may not claim eleventh amendment immunity, although individuals performing their responsibilities in good faith, even if later proven to be in error, may claim good faith immunity. Such immunity does not extend to public institutions,[9] or to individuals acting in bad faith.

The aforementioned laws have been the basis for much of the case

8. 42 U.S.C. § 1983.
9. Owen v. City of Independence, Mo., 445 U.S. 622 (1980).

law in the sports area. Cases decided in 1986, or decided in 1985 but not reported in the 1986 *Yearbook*, are briefly discussed in the remaining sections of this chapter.

ELIGIBILITY

In 1986 there were thirteen cases concerning student eligibility to participate in either interscholastic or intercollegiate sports. Of these cases, two dealt with age, one with discipline, one with grades, one with immunization, one with limitation on number of participants, one with number of years of participation, one with outside participation, one with residency, and four with transfer.

Age

In a case from the Michigan Court of Appeals, the hearing-impaired plaintiff was placed in special education classes until 1976 when he then was mainstreamed as required by civil rights laws.[10] However, when the mainstreaming took place the child was assigned to a class that was one grade level below that which his age would normally suggest. The parents apparently were satisfied with this arrangement until the child's senior year, when he was declared ineligible to play basketball because he had reached his nineteenth birthday prior to September 1. The child and his parents claimed a due process violation and filed suit. The appeals court ruled that neither the school's failure to conduct a placement hearing nor the athletic association's failure to provide an exception to the age rule violated the fourteenth amendment.

The second age-related dispute also involved a nineteen year old senior who was disqualified due to age—he had been held back in kindergarten due to a learning disability.[11] The student requested a hardship waiver to permit him to participate, but his request was denied; therefore, he filed suit in state superior court. That court ruled on his behalf and the Arizona Interscholastic Association appealed. The appeals court in part reversed and held that a constitutional right was not violated when the waiver was denied, and that the student should not receive attorneys' fees under section 1988, given that a section 1983 violation was not proven. In contrast, however, the court ruled that the Association violated its own rules when it failed even to consider the waiver request. Such an act did not violate the Constitution, but was in conflict with administrative law. Accordingly, that part of the trial court decision that supported the plaintiff's mandamus claim to compel the administrative board to exercise its discretion was upheld.

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10. Nichols v. Farmington Pub. Schools, 389 N.W.2d 480 (Mich. Ct. App. 1986).
11. Tiffany v. Arizona Interscholastic Ass'n Inc., 726 P.2d 231 (Ariz. Ct. App. 1986).

Discipline

In an intermediate court of appeals of Hawaii case, a student was forbidden from participating in a state track meet due to a pyrotechnics violation (i.e., the student had set off fireworks in the high school parking lot after school hours).[12] The court observed that the student had graduated, thereby making several of the related complaints moot, and that the denial of the right to participate in interscholastic athletics was not a liberty or property interest entitled to protection under the due process clause. However, the plaintiff was ruled to have met the requirements for an equal protection, section 1983 claim, and the case was remanded to determine whether local school officials acted in bad faith in their determination of penalty.

Grades

A 2.0 grade point average as one of several eligibility requirements for participation in extracurricular activities was the basis for suit in a Montana case.[13] Several students failed to meet this requirement and filed suit based on both the federal and state constitutions. The state supreme court ruled that participation in extracurricular activities was not a fundamental right under either constitution and that the "C" requirement did not violate either the equal protection or the equal educational opportunity concepts of the state constitution. In support of its position, the court noted that the government interest in developing the full educational potential of each person, and in providing a basic system of quality public education by the enactment of the 2.0 grade rule, outweighed the students' interest in participating in existing activities.

Immunization

In a unique case emanating from Pennsylvania, the student alleged that his religious beliefs were violated when he was required to receive a tetanus immunization as a condition for participation in interscholastic baseball.[14] The Commonwealth Court of Pennsylvania held that the requirement did not place an impermissible burden on students whose religious beliefs opposed immunization and that participation in interscholastic sports did not rise to the level of an important government benefit. In developing its position, the court argued that forgoing partici-

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12. Makanui v. Department of Educ., 721 P.2d 165 (Hawaii Ct. App. 1986).
13. State v. Board of Trustees, 726 P.2d 801 (Mont. 1986).
14. Calandra v. State College Area School Dist., 512 A.2d 809 (Pa. Commw. Ct. 1986).

pation in interscholastic sports would not coerce the plaintiff to violate his religious beliefs, given that no pressure was placed on him to modify his behavior.

Limitation on Number of Participants

In another Pennsylvania case, a district policy restricting the number of students who may participate on football teams was challenged by a head football coach.[15] The court ruled that the plaintiff failed to identify any personal injury and thus did not have standing to bring the action.

Number of Years of Participation

In a New York school district, a student was denied the right to participate in sports during his senior year.[16] The challenged rule permitted students to remain eligible for participation only for four consecutive school years. The plaintiff previously repeated the ninth grade and did not participate in sports during the tenth grade, although he did play during both years in the ninth grade and one year in the eleventh grade. As a result, the four consecutive year requirement had expired, while the student nevertheless wanted to have four full years of eligibility. Such a practice generally is disallowed because, if it were not, many students would similarly "redshirt" themselves, thereby permitting them to gain both physical and emotional maturity and giving them a comparative advantage in their respective sports. Furthermore, athletic associations tend to permit exceptions to related requirements only when circumstances beyond the control of the student and parents result in limiting the student's participation. Academic performance did not qualify, according to the association, and the exception request was denied. The state supreme court (a trial court) upheld the decision of the association.

Outside Participation

The New York Court of Appeals was asked to decide whether a high school athletic association rule prohibiting outside competition was in violation of the first, ninth, and fourteenth amendments.[17] The rule forbade participation in nonschool sport contests once the student had participated in the first interschool contest of any of the enumerated sports. The petitioners argued that the rule unconstitutionally interfered

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15. Mifflin County School Dist. v. Monsell, 504 A.2d 1357 (Pa. Commw. Ct. 1986).
16. Pratt v. New York State Pub. High School, 507 N.Y.S.2d 793 (Sup. Ct. 1986).
17. Eastern New York Youth Soccer Ass'n v. New York State Pub. High School Athletic Ass'n Inc., 499 N.Y.S.2d 671 (N.Y. 1986).

with parental rights to control the upbringing of their children. The state high court upheld the reasoning of the supreme court (appellate division), which disagreed with the parents' claim and noted that they still could determine whether their children were to play on school or nonschool teams. Rather, the court concluded that a legitimate state interest existed in ensuring that the students did not overtax themselves. Furthermore, the court noted that all sports did not have to be included in the policy for it to meet constitutional scrutiny and opined that "[e]qual protection does not require that all classifications be made with mathematical precision."[18]

Residency

The Ohio High School Athletic Association maintains a bylaw barring nonresident students (i.e., students not residing within the district) from participating in Ohio interscholastic sports.[19] This rule applies to state and nonstate residents, and to public and private schools. Residents from Kentucky were denied the right to participate at a private school and filed suit claiming a violation of the privileges and immunities clause of the Constitution (article IV, section 2, clause 1). In developing its rationale, the Sixth Circuit Court of Appeals applied a two-pronged test developed by the Supreme Court: first, whether the challenged act burdened one of the privileges and immunities protected by the clause; and second, if so, whether there was justification for the discrimination.[20] In answering the first question, the court stated that "[a]lthough interscholastic sports importantly promote opportunities for growth, leadership, and responsibility among students, we can find no way in which the right to participate in interscholastic sports is fundamental or basic to the nation's vitality or interstate harmony."[21] Because sports participation was not found to qualify under the privileges and immunities clause, the court was not then required to answer the second question and simply affirmed the right of the association to enforce the bylaw.

Transfer

The first of four transfer cases was decided by the Sixth Circuit Court of Appeals and involved two university football players.[22] Both received scholarships to a Division I university, but withdrew from the team for

18. *Id.* at 295.
19. Alerding v. Ohio High School Athletic Ass'n, 779 F.2d 315 (6th Cir. 1985).
20. *Id.* at 316.
21. *Id.* at 317.
22. Graham v. NCAA, 804 F.2d 953 (6th Cir. 1986).

personal reasons. One student later applied to another Division I school, while the other applied to a Division III school. Under NCAA regulations a student-athlete transferring from one Division I school to another is not eligible to participate in NCAA sports at the new school for one academic year. Also of importance was an NCAA rule mandating that an athlete's eligibility must be completed within five calendar years from the time the athlete first enrolled in college. Had the first transferring student set out one year, as required by the first regulation, he still would have been ineligible due to the second regulation. On the other hand, the second student applied to a Division III school and also wanted to continue to play football. To be exempt from the aforestated transfer rule, a student transferring from a Division I school to a Division III school need only acquire a written release from his former school. However, the former school refused to provide such a waiver unless it received the request from the institution to which the student had transferred. Given the above situations, the students were denied the opportunity to participate and filed suit claiming first and fourteenth amendment violations. The circuit court supported the NCAA in its efforts to enforce these regulations and concluded that actions of the NCAA were not "state actions" for section 1983 purposes. Furthermore, the court ruled that the university and its officials were protected from damage claims by the eleventh amendment.

A second transfer case emanated from Texas and involved a high school football player who was denied the opportunity to play during his senior year at the school to which he transferred.[23] The basis to the denial was a university interscholastic league rule that mandated that a student who changes schools for athletic purposes is not eligible to compete in varsity league athletic contests at the school to which he moves for at least one calendar year. The student claimed that he had not moved for athletic purposes and requested a second hearing before "neutral" persons. Such a hearing was provided, but the original decision to deny the opportunity to participate was confirmed. The student then filed suit. The trial court enjoined the board from preventing him from playing football his senior year. On appeal, the appeals court ruled the case to be moot since the student already had played the entire season and since he had graduated from high school.

The next transfer case involved a high school student who had transferred from a private school to a public school during the summer following his sophomore year, but had not changed his residence.[24] As in the other transfer cases, the student was denied the opportunity to participate in interscholastic sports. The trial court denied the student's petition and a

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23. University Interscholastic League v. Jones, 715 S.W.2d 759 (Tex. Civ. App. 1986).
24. Steffes v. California Interscholastic Fed'n, 222 Cal. Rptr. 355 (Ct. App. 1986).

California appeals court affirmed. At the appeals level it was noted that the right to participate in interscholastic athletics was not a fundamental right requiring strict scrutiny, and that the rule forbidding the plaintiff's participation was rationally related to a legitimate state purpose of preventing both recruitment by coaches and "shopping" by athletes.

In the fourth and final transfer controversy litigated in 1986, several students challenged a transfer provision similar to those discussed above.[25] The trial court granted summary judgment to the association that promulgated the controversial regulation and the case was appealed. On appeal, the court held the rule to be rationally related to a legitimate regulatory purpose of discouraging athletic recruitment and therefore not in violation of equal protection. Furthermore, the court observed that the association's refusal to conduct a hearing regarding waiver of the rule or to provide an appeal from that decision, did not deprive the students of due process.

EQUALITY OF PROGRAMS

In a student case from Montana, high school girls claimed sex discrimination in secondary athletic programs.[26] The Montana District Court concluded that the program was not equitable with respect to provision of sports opportunities for male and female students and therefore violated both title IX and the state constitution, but that the seasonal alignment of basketball and volleyball outside the national norm did not deprive the plaintiffs of any constitutional right. Also, the court observed that equity had not yet been realized with respect to access to prime practice time, access to equally desirable facilities, team support, provision of junior varsity and younger level teams for girls' sports, and the number of sport offerings. The court went on to note that the participation of females in sports would best be served by the continuing efforts of the Montana High School Association, the Office of Public Instruction, and local administrators in their efforts to survey and accommodate the interests and abilities of such athletes.

A second sex discrimination case was appealed to the Fifth Circuit Court of Appeals and involved female students who brought a class action alleging a title IX violation by West Texas State University in its athletic programs.[27] The appellants argued that the program was a recipient of federal financial assistance because student athletes who received federal funds used them in part to pay mandatory student fees

25. Berschback v. Grosse Pointe Pub. School Dist., 397 N.W.2d 234 (Mich. Ct. App. 1986).
26. Ridgeway v. Montana High School Ass'n, 633 F. Supp. 1564 (D. Mont. 1986).
27. Bennett v. West Texas State Univ., 799 F.2d 155 (5th Cir. 1986).

which supported activities of the department. Furthermore, the appellants proposed that the discrimination within the department was so infectious that it imputed to other departments that directly received federal assistance. The circuit court supported neither of these rationales and concluded that the athletic program was not covered by title IX.

Enforcement of Rules

In a Texas Supreme Court case, the University Interscholastic League (UIL), pursuant to established rules, declared a baseball team the winner of its playoff series even though only one of three scheduled games had been played due to the others being rained-out.[28] As a result of this decision, the school that lost the one game was out of postseason play and filed suit challenging the UIL decision. The state high court held that neither due process nor equal protection rights were violated by the decision.

Tort

In 1986, there were twenty-four tort cases: four intentional; eighteen negligence; two product liability. Related disputes varied considerably and included cases involving athletes, cheerleaders, spectators, and officials.

Intentional

Assault. The first of four intentional tort cases involved the assault of a football game referee by a game spectator in Louisiana.[29] The suit, however, was not filed agaainst the man who caused the injury, but rather was filed against the high school and its principal. The trial court dismissed the complaint for failure to state a cause of action and also denied the plaintiff the right to amend the petition. The plaintiff appealed the decision to the state court of appeals. The complaint alleged negligence on the part of the defendants for failing to properly and adequately investigate the lessors of the stadium and for allowing alcoholic beverages to be served on its premises without adequate crowd control personnel, procedures, and facilities. The lower court decision on behalf of the high school and principal was affirmed on appeal.

The second related case involved a university athlete who alleged assault and battery, intentional interference with contract (scholarship), misrepresentation, and breach of contract, among others.[30] The plaintiff

28. Eanes Indep. School Dist. v. Logue, 712 S.W.2d 741 (Tex. 1986).
29. Litomisky v. St. Charles High School, 482 So. 2d 30 (La. Ct. App. 1986).
30. Rutledge v. Arizona Bd. of Regents, 711 P.2d 1207 (Ariz. Ct. App. 1985).

alleged that his football coach grabbed and shook his face mask, called him obscenities, and struck him. Furthermore, he claimed to have been forced to leave the university as a result of constant mental and physical abuse by the coach and his assistant. The trial court ruled on behalf of the university and the former player appealed. The state court of appeals affirmed the lower court decision as well as the awarding of attorneys' fees to the university.

Libel. The next intentional tort case also involved the game of football, but, this time, libel was claimed when a newspaper article was published claiming that the coach "showed himself to be a big loser" and had "cursed and belittled his players," with particular abuse directed toward the quarterback after he had thrown numerous interceptions.[31] The coach contended that the article was incorrect and that he had not used abusive, vulgar, or profane language toward his players. In his support were several fans, officials, spectators, and players, including the allegedly abused quarterback. The jury returned a verdict in favor of the plaintiff for both compensatory and punitive damages; that decision was appealed to the state supreme court (appellate division). On appeal, the defendant argued that the evidence was insufficient to establish that the article was defamatory or that it was published with malice. The court in part disagreed and concluded that the defamatory statements about the plaintiff were intentionally and recklessly distorted. Accordingly, the compensatory damage award was ruled to be justified. However, the court did not support the common-law malice claim, thereby negating the award of punitive damages.

In the final intentional tort case of 1986, the Supreme Court of Ohio reviewed a case brought by a superintendent against a newspaper.[32] An article in the paper accused him of committing perjury at a hearing of the Ohio High School Athletic Association regarding a fight which occurred at a high school wrestling match. The trial court had entered summary judgment in favor of the newspaper and the superintendent appealed. The court of appeals affirmed the lower court decision, as did the state supreme court. The high court held that the superintendent was a "public official" for purposes of defamation law and that the opinions stated in the article were protected by both the federal and state constitutions.

Negligence

Negligence cases litigated in 1986 can be grouped into four cate-

31. Mahoney v. Adirondack Publishing Co., 509 N.Y.S.2d 193 (N.Y. App. Div. 1986).
32. Scott v. News-Herald, 496 N.E.2d 699 (Ohio 1986).

gories: suits from participants, cheerleaders, and officials who were injured while participating or practicing; suits from spectators who were injured while in attendance; suits from participants who were injured while enroute to a game; and a suit alleging vicarious liability.

Participants. Seven cases involved students who were injured while participating in sports (two in football, two in baseball, one in rugby, one in lacrosse, one in wrestling); one additional case involved a volunteer sideline official. Furthermore, four other cases were brought by persons injured during required practices (one in cheerleading, one in rowing, one in gymnastics, one in football).

The injury sustained by a football player was not one he had assumed the risk of incurring: he was shot during the game. As a result, he claimed negligence as well as violations of the due process clause and section 1983. The complaint was filed against school officials. The trial court dismissed the complaint and the First Circuit Court of Appeals affirmed.[33] The circuit court reasoned that the complaint failed to state a cause of action, given that it alleged no more than simple negligence and that the defendants were not directly responsible for security at the athletic field.

In a second case, a football player left the rest of his team and coach to go to the cafeteria area where he could call his father for a ride home.[34] While there he was attacked and beaten by three fellow students. The injured student sued school officials claiming negligent supervision. A Florida circuit court ruled on behalf of the plaintiff and the school board appealed. The appeals court affirmed the lower court decision and held that the school breached its duty to provide adequate security to its students, given the recognition by school officials that there was a need (1) to patrol and supervise the school grounds and (2) to prevent students from being left alone on campus either during the school day or during after-school activities.

In the first of two baseball-related injury cases, the court ruled that the city board had not waived its immunity from suit with regard to injuries sustained by participants in athletic contests.[35] In the second case, the state appeals court concluded that whether a school district had breached its duty, and whether the outfielder had assumed the risk of participation, were genuine issues of material fact precluding summary judgment.[36]

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33. Williams v. City of Boston, 784 F.2d 430 (1st Cir. 1986).
34. Broward County School Bd. v. Ruiz, 493 So. 2d 474 (Fla. Dist. Ct. App. 1986).
35. Overcash v. Statesville City Bd. of Educ., 348 S.E.2d 524 (N.C. Ct. App. 1986).
36. Beckett v. Clinton Prairie School Corp., 494 N.E.2d 988 (Ind. Ct. App. 1986).

In an Illinois appeals court case, a rugby player was injured during a game and brought action against a private religious high school athletic league claiming negligence and willful and wanton conduct.[37] The trial court had granted the league's motion to dismiss a part of the complaint and the appeals court affirmed. The appeals court based its position on the fact that the league had not assumed the responsibility for regulating the nonleague sport of rugby, for providing or requiring protective equipment, or for establishing minimum qualifications or training for athletic coaches. Accordingly, the defendant did not have the "duty" to protect the student. Without such a showing the plaintiff failed to state a cause of action for negligence.

The lacrosse case was brought by a player from a visiting team who had incurred serious back injuries while participating in a game.[38] In this Ohio Supreme Court case, the player sued the university under the doctrine of *respondeat superior*. The state high court ruled that the student who caused the injury was not an agent of the university so as to impose liability and that an illegally parked car that caused a delay in the arrival of the ambulance and medical personnel also did not render the institution liable.

In a case involving injury to a wrestler, the hospital filed suit against the county for payment of the bill, while the county sued the insurer which issued a group accident medical policy to the athletic association. The court ruled that the insurer was responsible for paying the student's hospital bill up to the recovery ceiling of $100,000.[39]

A Connecticut case involved a spectator who was injured while serving as a sideline official at a high school football game.[40] He was run into by a player. The state appeals court ruled that the town and school board were immune from liability on the negligence claim and that the spectator could not recover under the theory of public or private nuisance.

In addition to those cases identified above, four negligence cases were brought by individuals injured in practice or while training. In the first case, a cheerleader claimed that her injury, which resulted from a fall on school property after school hours, was a result of inadequate supervision.[41] Notwithstanding the assertion, the appeals court held the school district to be immune from such suits under state tort law.

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37. Perkins v. Chicago Catholic High School Athletic League, 488 N.E. 2d 623 (Ill. App. Ct. 1986).

38. Hanson v. Kynast, 494 N.E. 2d 1091 (Ohio 1986).

39. Coconino County v. Fund Admr's Ass'n, Inc., 719 P. 2d 693 (Ariz. Ct. App. 1986).

40. Couture v. Board of Educ., 505 A. 2d 432 (Conn. Ct. App. 1986).

41. Messina v. Blairsville-Saltsburg School Dist., 503 A. 2d 89 (Pa. Commw. Ct., 1986).

A second training-related case was filed by a girl who fell from the bench on which she was exercising while training for a position on the school's rowing crew.[42] The court noted that the uneven bench apparently had been responsible for the fall of another girl earlier in the day, and that no one was assigned the responsibility of "spoting" the students as they performed their exercises. The trial court granted a directed verdict to the district and the plaintiff appealed. On appeal, the court decided to reverse and remand, stating that the jury must decide whether the coach had properly positioned the board and whether adequate supervision existed at the time the injury occurred.

In the third training-related case, an injured gymnast brought action against her coach and school district claiming a violation of state tort law.[43] On appeal to the Iowa Supreme Court, the issue became whether the student's father had complied with the statutory notice provisions of the law. The state high court ruled that the father had met the requirement when he requested reimbursement for the ambulance service within the statutory time period.

In the final case in this subsection, a student sustained injuries which resulted in quadriplegia while engaging in a tackling drill during football practice.[44] He filed suit in a Massachusetts state court. On appeal, the court ruled that the coach could be held responsible for misfeasance, but not for nonfeasance; that the town was protected by governmental immunity; and that the plaintiff could not be regarded as an employee of the town for workers' compensation purposes.

Spectators. Three cases in 1986 were filed by persons who were injured while in attendance at sporting events. The first case was filed by the parents of an infant who was injured when struck by a baseball overthrown at first base.[45] The plaintiffs averred that defendants had failed to maintain, design, and supervise the field properly; failed to locate the spectators' seating area in a safe place; and failed to install proper protective shields or nets, among other charges. The district claimed immunity, and the trial court agreed and granted summary judgment. On appeal, the court ruled that the school district of the visiting team was not liable and that the electric company which leased the field to the parks commission was protected by the Recreation Use of Land and Water Act. However, the appeals court remanded the case to determine whether the home school district "possessed" the baseball

42 Hornyak v. Pomfret School, 783 F.2d 284 (1st Cir. 1986).
43 Oliver v. Sioux City Community School Dist., 389 N.W.2d 665 (Iowa 1986).
44 Marcy v. Town of Saugus, 495 N.E.2d 569 (Mass. App. Ct. 1986).
45 Lowman v. Indiana Area School Dist., 507 A.2d 1270 (Pa. Commw. Ct. 1986).

field and whether the "real property" exception in tort law would therefore apply.

The next related case emanated from Texas and involved a spectator who was injured when the school bleachers collapsed while she was watching a basketball game.[46] The appeals court ruled the game to be a governmental function, rather than proprietary, and accordingly concluded that the district maintained immunity in such claims.

In the final spectator case, the injured person was struck by a goalpost which had been pulled down at the conclusion of a college football game.[47] The plaintiff alleged negligence and the creation of a public nuisance. The United States District Court of Connecticut ruled that the stadium was private property and therefore was not subject to suit under public nuisance. However, issues of material fact regarding whether the city and its officers had breached a ministerial duty owed to the spectators had not been resolved and therefore summary judgment was precluded.

Enroute to Game. The first of two cases under this subtopic involved suit against a state university and other officials (1) for negligence causing the death of a student who was killed in an airplane crash, and (2) for breach of contract for failure to insure the student's life.[48] A court of appeals in Tennessee held that the university and its officials were protected by the doctrine of sovereign immunity from liability for such negligence and contract claims.

In the second case, a van carrying the university wrestling team was involved in an accident.[49] The van had been loaned to the university and was driven by the coach. The suit was filed by the owner of the van and his insurer in an effort to acquire declaration that the insurer had no duty to defend or indemnify the university coach or the state for liability claims of third persons arising out of the accident. The Court of Appeals of Oregon ruled that the van owner's policy, as written, did in fact require the insurer to defend and indemnify the state and the coach. Furthermore, the state statute that prohibited state agencies from purchasing liability insurance except as authorized by law did not preclude the state from taking advantage of the van owner's policy.

Vicarious Liability. In an unusual case, the estate of a decedent shot by an intoxicated person brought both a dramshop action and a

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46. Gravely v. Lewisville Indep. School Dist., 401 S.W.2d 936 (Tex. Ct. App. 1986).
47. Cimmino v. Yale Univ., 638 F. Supp. 952 (D. Conn. 1986).
48. Greenhill v. Carpenter, 719 S.W.2d 268 (Tex. Ct. App. 1986).
49. Fircrest Poultry Farms Co. v. State, 728 P.2d 968 (Or. Ct. App. 1986).

negligence action against the defendant school district and others.[50] Plaintiffs alleged that the school district's agent, an athletic booster organization, served alcoholic beverages to a visibly intoxicated person who later killed plaintiff's decedent as well as himself. The Court of Appeals of Michigan held that the school district could be held vicariously liable under the dramshop provision of state law, but that no common-law action existed.

Products Liability

In the first of two related cases, a former high school football player was injured and filed suit against both the manufacturer of his helmet for products liability and a physician for medical malpractice.[51] The plaintiff was a resident of Ohio and was injured in a game played in that state. However, he was treated by a physician in Michigan and filed suit in that state. On appeal, the Michigan Court of Appeals held that the trial court had not abused its discretion either in severing the two claims or in determining that Ohio, rather than Michigan, was the proper forum for the products liability claim against the manufacturer.

In the final tort case, an Illinois appellate court reviewed a case filed by a high school football player who suffered a fracture of the cervical spine when tackling an opponent during a game.[52] The suit was brought against the helmet manufacturer and retail seller. The court held that the football helmet was not defective because it did not carry a warning that it would protect against injuries to the cervical spine which might result in quadriplegia or death. In reaching its decision, the court also observed that the plaintiff had been properly instructed on how to tackle and was aware that he could be injured if his head was the initial point of impact.

EMPLOYMENT

Adverse Employment Decisions

Nine cases involved the dismissal, nonrenewal, or transfer of coaches or athletic directors: immorality (one), incompetency (one), insubordination (two), length of contract (two), neglect of duty (one), resignation (one), and transfer (one).

Immorality. In a Missouri case, two teachers/wrestling coaches were dismissed by the school board for their conduct at a wrestling

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50. Kerry v. Turnage, 397 N.W.2d 543 (Mich. Ct. App. 1986).
51. Jemaa v. MacGregor Athletic Prod., 390 N.W.2d 180 (Mich. Ct. App. 1986).
52. Lister v. Bill Kelley Athletic, Inc., 485 N.E.2d 483 (Ill. App. Ct. 1985).

tournament.[53] They were responsible for chaperoning six athletes, while a mother of one of the cheerleaders was responsible for chaperoning four cheerleaders. The groups were assigned to two different motels. The chaperons spent most of their evening hours drinking in the motel bar and later went to a friend's house where a party was taking place. During their absence, several students left the motel without permission, beer was brought into the motel room, and both groups of students eventually gathered in the room reserved for the wrestlers. The chaperons returned to the rooms at approximately 1:30 a.m. They claimed they were unable to arouse the sleeping cheerleaders in order for them to return to their quarters, so a decision was made to permit them to stay together. The teachers claimed that the decision was based on the late hour, the weather, the intoxication of the female chaperon who would be responsible for driving the students, and the female chaperon's lack of familiarity with the vehicle she was driving. Following this decision, one of the coaches and the female chaperon proceeded to occupy one of the beds in one of the rooms, while the other coach and one of the cheerleaders occupied the other bed in the same room. Several students slept in the room with the chaperons, while several others stayed in an adjoining room. The next morning all involved parties agreed not to discuss the events of the prior evening. Notwithstanding this agreement, the teachers' supervisor learned of the incident approximately one month later. This information was the basis for a decision to terminate the employment of the coaches. The coaches sued claiming that the incident did not render them unfit to teach. The Missouri Court of Appeals disagreed and concluded that the evidence was sufficient to support both the charge of immorality and the conclusion that they were unfit to teach.

Incompetency. The Supreme Court of Appeals of West Virginia was responsible for review of the lone incompetency case of 1986 involving coaches.[54] In that case, a head football coach was dismissed from his coaching responsibilities, but was retained as a teacher. On appeal to the state superintendent, the decision of the local board and superintendent to nonrenew the coaching contract was reversed, because the reasons for nonrenewal were not adequately proven. That decision, however, was reversed by a state circuit court, which concluded that state procedural requirements did not apply in a case involving nonrenewal of a contract for extracurricular duties. On further appeal to the supreme court of appeals, the lower court decision was

53. Schmidt v. Board of Educ., 712 S.W.2d 45 (Mo. Ct. App. 1986).
54. Hosaflook v. Nestor, 346 S.E.2d 798 (W. Va. 1986).

reversed; the appeals court ruled that the procedural protections did in fact apply and that the coach was entitled to reinstatement because he had not been afforded a written evaluation and an opportunity to improve.

Insubordination. In 1986, there were two cases involving the insubordination of a coach and an athletic director: the first from Kansas, the second from Mississippi. In the Kansas case, the school district brought a declaratory judgment action against a tenured teacher and union seeking a determination that the teacher's refusal to accept extra duty (i.e., the coaching of basketball) amounted to insubordination and was a breach of contract.[55] The district court entered judgment for the district and appeal was made to the Court of Appeals of Kansas. That court held that a teacher may not have a primary contract terminated for refusal to accept a supplemental contract.

In the Mississippi case, an athletic director was dismissed based on insubordination, direct disobedience of board policy, unauthorized expenditures, and numerous inappropriate budgetary decisions.[56] The coach claimed a violation of due process because he had not been informed of each of the specific improprieties. The court noted, however, that the charges brought against the plaintiff were broad in nature and met the notice requirement. Furthermore, the court observed that school boards were not courts and therefore were not bound by the Mississippi Rules of Evidence.

Length of Contract. The first of two length of contract disputes was resolved by the Court of Appeals of Minnesota.[57] In that case, a teacher had coached basketball for ten years, based on successive one-year contracts. Following the expiration of the last contract, the board voted not to renew, but gave no reason other than that the prior contract had expired. That decision was upheld by a hearing officer following an administrative appeal. After that appeal, the plaintiff filed suit. The state appeals court ruled that the failure to renew the coaching contract was not a termination giving rise to notice and hearing requirements and that the reason for nonrenewal provided by the board was adequate.

The second case in which length of contract was disputed involved a coach whose contract was terminated and later claimed breach of contract, fraud, intentional interference with advantageous business relationships, and intentional infliction of emotional distress.[58] The de-

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55. Unified School Dist. No. 241 v. Swanson, 717 F.2d 526 (Kan. Ct. App. 1986).
56. Merchant v. Board of Trustees, 492 So. 2d 939 (Miss. 1986).
57. Hahn *In re*, 386 N.W.2d 780 (Minn. Ct. App. 1986).
58. University of Ariz. v. Pima County, 722 P.2d 352 (Ariz. Ct. App. 1986).

fendants moved for summary judgment and the lower court granted the motion except for plaintiff's breach of contract and fraud counts. On appeal, the University of Arizona (the petitioner) argued that the alleged multi-year contract with the coach was for more than one year and, as a result, violated state law and therefore was void and unenforceable. The court disagreed and concluded that multi-year contracts are possible in selected circumstances and that the contract in question was legal and enforceable.

Neglect of Duty. In a case similar to that discussed under "immorality," a female teacher was responsible for chaperoning several cheerleaders, some of whom were under legal age to consume alcohol.[59] Nevertheless, she permitted them to drink beer at their motel room, and even drank with them. When this incident was communicated to school officials, steps were taken to dismiss the teacher based on neglect of duty. The teacher then administratively appealed the dismissal decision to a hearing officer. The hearing officer recommended that the teacher be retained. Notwithstanding the above, the Colorado Court of Appeals ruled that the school board may adopt a hearing officer's findings but still overrule the final recommendation. Given this conclusion, the court upheld the dismissal of the teacher.

Resignation. In an Alabama Supreme Court case, the appellant was a tenured teacher who also worked as a football coach.[60] He decided that he no longer wanted to serve as a coach and submitted a letter of resignation to the superintendent stating his intentions. The board of education later informed him that his proposed resignation as a coach would also be considered as a resignation from his tenured teaching position. Because he did not wish to lose his teaching position, he withdrew his letter of resignation and continued both teaching and coaching. The teacher then filed suit. The trial court granted the board's motion to dismiss and the teacher appealed. On appeal, the state high court ruled that the present controversy could be settled in a declaratory judgment action and remanded the case to the trial court to hold a hearing on the merits of the claim.

Transfer. In West Virginia, a teacher was dismissed from a coaching position without prior notice or a hearing.[61] The circuit court upheld the dismissal and the teacher appealed. The supreme court of appeals

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59 Blaine v. Moffat School Dist. No. 1, 708 P.2d 745 (Colo. Ct. App. 1985).
60 Moss v. Williams, 489 So. 2d 575 (Ala. 1986).
61 Smith v. Board of Educ., 341 S.E.2d 685 (W. Va. 1985).

held that state statute requiring separate contracts for teaching and coaching did not indicate that procedural due process did not have to be followed regarding extracurricular contracts. Furthermore, the board's refusal to renew the teacher's coaching position was a "transfer" subject to statutory procedural protections. Since such procedures were not followed, the plaintiff was entitled to reinstatement and back pay.

Compensation

In a Florida case, a Public Employees Relations Commission (PERC) decision was challenged in state appeals court.[62] Contrary to a prior ruling, PERC's final order found that supplemental pay for coaching duties performed by teachers was a "wage" subject to collective bargaining under state law. The appeals court concluded that the PERC decision was proper.

Discrimination

In 1986, there were three race and three sex discrimination suits claiming violations under the fourteenth and first amendments, title VII, title IX, and sections 1981 and 1983.

Race. The first race discrimination case was heard by the Fifth Circuit Court of Appeals and dealt with the transfer of a high school head football coach/athletic director in Texas.[63] The coach (white) had a number of disagreements with his principal (black) including (1) the former's statements that he would never again use black officials in a game and that most of his athletes (the majority of whom were black) could not meet NCAA academic standards, and (2) his inability to deal with public controversies regarding bribery, a game plan that was not followed, and use of nonschool personnel in the booth. The principal wanted the coach removed due to his lack of leadership performance, lesson plan preparation, attendance at faculty meetings, and his aforestated comments. Following several reassignments, the former coach filed suit. Soon thereafter he was assigned to teach in another high school where he also was to serve as freshman football coach. The court ruled that the plaintiff had established a prima facie case of race discrimination, given that he was a member of a racial minority at his particular school; that he was exceptionally well qualified for the position; that the recommendation to replace him was made by a black principal; and that

62. School Bd. v. Levy County Educ. Ass'n, 492 So. 2d 1140 (Fla. Dist. Ct. App. 1986).

63. Jett v. Dallas Indep. School Dist., 798 F.2d 748 (5th Cir. 1986).

he was replaced by a black coach who was substantially less qualified. However, the defendant was able to effectively rebut the prima facie claim, given the nonrace-related concerns identified above. The inquiry then centered on whether the proferred reasons were a pretext to intentional discrimination. Sufficient evidence to support intentional discrimination was found to exist by the jury and that decision was upheld by the circuit court. The plaintiff also was successful in his first amendment free speech claim against the principal. His comment regarding the inability of his athletes to meet national standards was ruled to be a matter of public concern and therefore protected under the first amendment, even though the statement later was shown to be untrue.

In contrast to the above, the school district was not ruled to have violated section 1983, since the actions of the principal were not due to official action, policy, or custom and since it was not proven that the superintendent's decision to support the transfer recommendation was improperly motivated. Furthermore, neither section 1981 liability based on *respondeat superior* nor the due process and constructive discharge claims was found to be meritorious. The plaintiff's contract had not been terminated (he was transferred) and therefore he did not suffer a property loss. The case then was remanded to determine damages and attorneys' fees.

The second race discrimination case evolved from Arkansas and was reviewed by the Eighth Circuit Court of Appeals.[64] In that case, a black assistant basketball coach at the University of Arkansas, Little Rock, applied for the head coach position. A white male was hired, while the black assistant was not renewed for the following year. The plaintiff filed an EEOC complaint and later filed suit based on title VII, section 1983, and the first amendment. The district court dismissed the title VII charges against the chancellor and athletic director because they were not named in the EEOC complaint, and also dismissed the section 1983 charges because the appellant had failed to establish a prima facie case. Notwithstanding the above, the court concluded that the plaintiff had established a prima facie case of retaliatory discharge, but that the district court's order failed to provide sufficient facts to determine whether the appellees had articulated a legitimate nondiscriminatory reason for the discharge. Given the above, the case was remanded to enable the appellant to present evidence of pretext.

The final race-related case originated in Mississippi and involved a consent decree and its impact on three black educators, one of whom was a coach.[65] A federal district court concluded that the decree indi-

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64. Greenwood v. Ross, 778 F.2d 448 (8th Cir. 1985).
65. United States v. Mississippi, 641 F. Supp. 242 (S.D. Miss. 1986).

cated that the coach was entitled to a head coaching position, but not necessarily to a head football coaching position.

Sex. The first employee sex discrimination case emanated from Nebraska, where a women's basketball coach was not rehired and claimed discrimination both in regard to the employment decision and to the nature of the employment (e.g., work load).[66] The coach had missed a national athletic association meeting, failed to send a team roster to tournament officials, arrived late to one basketball game, failed to get the team to other games on time, once scheduled varsity and junior varsity games for the same day in different cities, used an unauthorized assistant, left basketball practices unsupervised, recruited poorly, maintained poor staff relations, poorly organized team involvement in the high school invitational tournament, and failed to provide detail in expenses. As a result, her nontenured contract was nonrenewed. She then filed suit in federal district court claiming a violation of title IX and title VII. On appeal, the Eighth Circuit Court of Appeals upheld the lower court's decision rejecting plaintiff's inferences of pretext and concluding that title III funds for research did not qualify as federal financial assistance for title IX purposes in this instance, given that intercollegiate sports did not constitute "academics."

The second employee sex discrimination case was filed in a federal district court in South Dakota and later was appealed to the Eighth Circuit Court of Appeals.[67] That case involved a female applicant for a teaching position that later was filled by a male who also could coach football. At the trial level, the jury ruled that the plaintiff had not been discriminated against based on sex. That decision was upheld on appeal by the circuit court where it was concluded that the district had a legitimate, nondiscriminatory reason for not hiring the applicant—the male was better qualified.

The final sex discrimination case involved a physical education teacher who alleged that she was unlawfully denied the right to become head football coach because of her sex.[68] The prior coach had worked under the assumption that he would remain coach for three years, even though he had the right, according to union contract, to sign only a one year contract given that he was a substitute teacher. After the first one year contract expired, the job became open. The plaintiff was the only person to apply and was hired. Later it was learned that the former coach assumed that the job was still his and argued that if the position

66. O'Connor v. Peru State College, 781 F.2d 632 (8th Cir. 1986).
67. Grebin v. Sioux Falls Indep. School Dist. No. 49-5, 779 F.2d 18 (8th Cir. 1985).
68. Oates v. District of Columbia, 647 F. Supp. 1079 (D.D.C. 1986).

technically were open, he also would have applied had he received notice of the vacancy. The plaintiff was the person who distributed the notices and remembered putting them into the respective mailboxes, but could not specifically remember putting one in the former coach's box. The federal district court ruled that the nonselection of the plaintiff was due to the fact that no vacancy in fact existed and not to the fact that plaintiff was a woman.

Distributor Contracts

In a case from Arizona, a former university basketball coach sued an athletic shoe distributor for money allegedly due under an oral contract.[69] Plaintiff argued that he was to be paid an advisory and consultation fee of $30,000 in return for his commitment to have the members of the team wear Adidas shoes. The oral agreement did not include a provision regarding the contract continuation if the coach were to resign or have his contract terminated. The coach did in fact have his employment terminated, but still demanded that the shoe distributor continue to make payments pursuant to the oral agreement. The company refused and suit was filed. A federal district court held that the plaintiff's termination as coach was a sufficient basis for voiding the agreement. (It also was interesting to note that the plaintiff's successor entered into a similar advisory contract with a shoe company—Nike.)

Miscellaneous

Discipline of Nonparticipants

In a Kansas case, students had been suspended for three days for their admitted vandalism of school property.[70] The suspension included athletic events in addition to classes. The students and their parents sued claiming a violation of due process. The Kansas District Court held that adequate due process had been provided the disciplined students and that attendance of athletic games was not a constitutionally protected student right. Furthermore, the court concluded that the parents lacked standing to assert their own due process rights.

Media

In 1986 yet another case from Oklahoma involving the right to broadcast Big Eight Football games was heard by a federal district

69. Lindsey v. Clossco, 642 F. Supp. 250 (D. Ariz. 1986).
70. Boster v. Philpot, 645 F. Supp. 798 (D. Kan. 1986).

court.[71] In the instant case, an antitrust action was brought by the Independent Television Stations, Inc. and the Sports View Company against the College Football Association, the Big Eight Football Conference, ABC Sports, Inc., and Entertainment and Sports Programming Network, Inc. The complaint alleged price fixing, limited output, and monopoly. The trial court ruled that genuine issues of material fact precluded summary judgment and denied plaintiff's motion.

Open Meetings

In a Maryland case, a newspaper publisher brought action against a university board of regents to obtain access to subcommittee meetings dealing with the academic achievement of student-athletes.[72] The committee was convened as a result of investigation of the cocaine-related death of a basketball player, Leonard Bias. The state circuit court had denied the injunction against the closed meetings and appeal was made. The Court of Special Appeals of Maryland held that the task force was not a "public body" within the meaning of the open meeting law and therefore was not required to allow the public to attend its meetings. Furthermore, the court ruled that the newspaper publisher did not have a free speech right under either the state or federal constitutions to attend the subcommittee meetings.

Public Records

The Supreme Court of Georgia reviewed the only 1986 sports case involving the disclosure of records prepared by a private athletic association.[73] In that case, a newspaper representative had requested disclosure of materials showing income, expenses, assets, and liabilities of a university athletic association. The trial court dismissed the complaint and the newspaper appealed. The state supreme court reversed (in part), holding that such records were "public records" under the state Open Records Act, and therefore were subject to disclosure.

Workers' Compensation

In the sole workers' compensation case involving student athletes, a California appeals court was asked to decide whether a varsity college athlete who had been a recipient of an athletic scholarship was eligible

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71. Association of Indep. T.V. v. College Football Ass'n, 637 F. Supp. 1289 (W.D. Okla. 1986).

72. A.S. Abell Publishing Co. v. Board of Regents, 514 A.2d 25 (Md. Ct. Spec. App. 1986).

73. Macon Telegraph Publishing Co. v. Board of Regents, 350 S.E.2d 23 (Ga. 1986).

for benefits for injuries allegedly sustained while playing football.[74] The workers' compensation judge held that the athlete was an employee of the university and therefore eligible for benefits. However, that decision was reconsidered by the Workers' Compensation Appeals Board which ruled that the athlete was not an employee. The appeals board decision then was challenged in court. The appeals court concluded that the athlete did not have a vested right in employee status at the time of his injury and that a legislative declaration excluding athletes as employees for purposes of workers' compensation was not unconstitutional, even if done retroactively.

74. Graczyk v. Workers' Compensation Appeals Bd., 229 Cal. Rptr. 494 (Ct. App. 1986).